



HAWAI‘I CIVIL RIGHTS COMMISSION

830 PUNCHBOWL STREET, ROOM 411 HONOLULU, HI 96813 · PHONE: 586-8636 FAX: 586-8655 TDD: 568-8692

March 14, 2019
Rm. 225, 2:45 p.m.

To: Hon. Laura Thielen, Chair
Hon. Lorraine R. Inouye, Vice Chair
Members of the Senate Committee on Government Operations

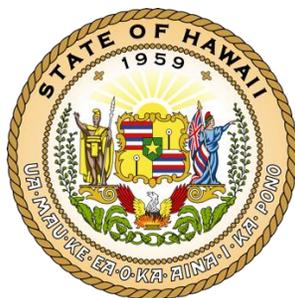
From: Linda Hamilton Krieger, Chair
and Commissioners of the Hawai‘i Civil Rights Commission

Re: H.B. No. 483, H.D.2

The Hawai‘i Civil Rights Commission (HCRC) has enforcement jurisdiction over Hawai‘i’s laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state funded services (on the basis of disability). The HCRC carries out the Hawai‘i constitutional mandate that no person shall be discriminated against in the exercise of their civil rights. Art. I, Sec. 5.

The HCRC supports H.B. No. 483, H.D.2, which amends Section 3 of Act 110, Session Laws of Hawaii 2018, to allow the Legislative Reference Bureau (LRB) additional time, to complete its study by August 1, 2019 of existing Title IX enforcement practices and procedures at the federal level and in other jurisdictions, and submit a report to the legislature with findings and recommendations, including proposed legislation regarding an appropriate enforcement mechanism for the newly codified HRS chapter 368D, which goes into effect on January 1, 2020.

Under Act 110, the LRB report and recommendations, including draft legislation providing for enforcement of HRS chapter 368D, was to be submitted twenty days prior to the convening of the 2019 session. H.B. No. 483, H.D.2, should be advanced in order to allow for substantive discussion of the LRB recommendations, keeping alive the possibility that a statutory enforcement scheme can be enacted, to provide for enforcement of HRS chapter 368D, effective January 1, 2020.



Testimony on behalf of the
Hawai'i State Commission on the Status of Women
Khara Jabola-Carolus, Executive Director

Prepared for the Senate Committee on Government Operations

In Support of HB483 HD2

Dear Chair Thielen, Vice Chairs Inouye, and Honorable Members,

The Hawai'i State Commission on the Status of Women supports HB483 HD2, which would require the Legislative Reference Bureau to submit no later than August 1, 2019, a report studying how other jurisdictions oversee Title IX enforcement.

Last year, Hawai'i made history by passing HB1489 into Act 110, creating a state analog to the Patsy Mink Equal Opportunity in Education Act (Title IX). The landmark law; however, is incomplete and lacks enforcement procedures and remedies. In light of the Trump administration's revocation of more than twenty Obama-era policy guidelines on anti-discrimination laws, state action is critical. The Commission supports the extension of the LRB deadline to ensure that the new law is enforceable, and does not erode existing Hawai'i civil rights laws.

The Commission supports a deadline for the report that is no later than August 1, 2019. The Commission supports the intent of this measure and respectfully urges the Committee to pass HB483 HD2.

Sincerely,

Khara Jabola-Carolus

Charlotte A. Carter-Yamauchi
Director

Shawn K. Nakama
First Assistant

Research (808) 587-0666
Revisor (808) 587-0670
Fax (808) 587-0681



LEGISLATIVE REFERENCE BUREAU
State of Hawaii
State Capitol, Room 446
415 S. Beretania Street
Honolulu, Hawaii 96813

Written Comments

HB483, HD2 RELATING TO CIVIL RIGHTS

Charlotte A. Carter-Yamauchi, Director
Legislative Reference Bureau

Presented to the Senate Committee on Government Operations

Thursday, March 14, 2019, 2:45 p.m.
Conference Room 225

Chair Thielen and Members of the Committee:

Good afternoon Chair Thielen and members of the Committee, my name is Charlotte Carter-Yamauchi and I am the Director of the Legislative Reference Bureau. Thank you for providing the opportunity to submit written comments on H.B. No. 483, H.D. 2, Relating to Civil Rights.

The purpose of this measure is to:

- (1) Extend the deadline for the Bureau to complete its study of existing federal Title IX procedures and enforcement, in addition to examining Title IX corollaries in other jurisdictions; and
- (2) Serve as a means for implementing the recommendations in the study.

The Bureau takes no position on this measure, but submits the following comments for your consideration.

The Bureau acknowledges that the act requiring the study, Act 110, Session Laws of Hawaii 2018, established a report due date of no later than twenty days prior to the convening of the 2019 Regular Session, which was December 27, 2018. Due to an extraordinary amount of additional work during this past interim and the substantial complexity of this study's subject matter, the Bureau has been unable to complete the Title IX

study in the time allotted to it. However, the Bureau is working diligently to complete the study as soon as possible in light of the challenges posed by, among other things; articulating the evolving nature of the federal Title IX enforcement process and the concomitant uncertainty that lies ahead; an unavoidable change to assigned Bureau personnel conducting the study during a critical time in the study process; and the Bureau's current heavy session workload.

Thank you again for the opportunity to submit written comments.

Executive Director
Adriana Ramelli

ADVISORY BOARD

President
Mimi Beams

Joanne H. Arizumi

Andre Bisquera

Kristen Bonilla

Marilyn Carlsmith

Dawn Ching

Senator (ret.)
Suzanne Chun Oakland

Monica Cobb-Adams

Donne Dawson

Dennis Dunn

Steven T. Emura, M.D.

Councilmember
Carol Fukunaga

David I. Haverly

Linda Jameson

Michael P. Matsumoto

Lindsay Norcross Mist

Nadine Tenn Salle, M.D.

Joshua A. Wisch

Date: March 14, 2019

To: The Honorable Laura H. Thielen, Chair
The Honorable Lorraine R. Inouye, Vice Chair
Senate Committee on Government Operations

From: Justin Murakami, Manager, Prevention Education and Public Policy
The Sex Abuse Treatment Center
A Program of Kapi'olani Medical Center for Women & Children

RE: Testimony in Support of H.B. 483 H.D. 2
Relating to Civil Rights

Good afternoon Chair Thielen, Vice Chair Inouye, and members of the Senate Committee on Government Operations:

The Sex Abuse Treatment Center (SATC) supports H.B. 483 H.D. 2.

National and local surveys of educational institutions that receive public funds support that protections against gender-based discrimination, including sexual harassment and violence, are badly needed.

In one study conducted by the American Association of University Women, it was found that sexual harassment is a part of everyday life in middle and high schools, with 48% of students surveyed reporting that they experienced some form of harassment during the school year (56% of female students and 40% of male students). In Hawaii, the University of Hawaii System reported its Climate Survey Report in 2018, which revealed that many students experienced harassment and violence on campus, and have come to expect that it will be a part of their school experience.

Gender-based discrimination in educational programs is a significant barrier to academic, professional, and personal success. Students who experience harassment and sexual violence, in particular, can suffer from stress and trauma resulting in poor academic performance, negative health consequences, social withdrawal, and the decision to defer or discontinue their education altogether.

Act 110 (2018) extended the anti-discrimination rule of the federal Patsy Mink Equal Opportunity in Education Act (Title IX), to state agencies and activities that receive state funds, and directed the Legislative Reference Bureau to perform a study in order to provide guidance and make recommendations as to effective enforcement and remedies. However, the Legislative Reference Bureau was unable to complete the study prior to the 2019 Session.

We respectfully ask that the Committee pass this measure to ensure that the study is completed in as timely a manner as possible.

Thank you for this opportunity to testify in support of H.B. 483 H.D. 2.



of Hawaii

March 12, 2019

From: Hannah Liebreich, Title IX Specialist, Public Policy Committee, AAUW Hawaii
Younghee Overly, Public Policy Chair, AAUW Hawaii

To: Hawaii State Senate Committee on Government Operations
Hearing Date/Time: Thursday March 14, 2019 2:45PM
Place: Hawaii State Capitol, Rm. 225
Re: Testimony in SUPPORT of HB483 HD2

Dear Chair Thielen, Vice-Chair Inouye, and Members of the Committee,

Thank you for this opportunity to testify in in strong support of HB483 HD2 with a request for amendment. HB483 HD2 extends the deadline for the legislative reference bureau (LRB) to complete the study on Title IX directed by Act 110, Session Laws of Hawaii 2018, from 20 days before the start of the 2019 Hawaii legislative session to August 1, 2019.

With recent dramatic changes to US DOE's Title IX guidance and potential change to the Title IX regulation, we need this study which would provide analysis of Title IX enforcement practices and procedures on the federal level and other jurisdictions, and recommendations on the foregoing issues, including a proposed legislation. The findings and recommendations from the LRB study will provide critical input to proposing a Title IX bill for the 2020 Hawaii state legislative session.

Since Act 110 becomes effective January 1, 2020 before we can work on the Title IX bill based on the LRB study, we want to ensure Act 110 is in accordance with Title IX of the Education Amendments of 1972 20 U.S.C. Sec. 1681.6 (same-sex membership practices/social groups) and 20 U.S.C. Sec. 1686 (same-sex housing) as it read on January 1, 2019. Please amend Act 110, SLH 2018, as such to avoid unintended consequences.

The American Association of University Women (AAUW) of Hawaii is a state-wide organization made up of six branches (Hilo, Honolulu, Kauai, Kona, Maui, and Windward Oahu) and includes just over 450 active members with over 1700 supporters statewide. As advocates for gender equity, AAUW of Hawaii promotes the economic, social, and physical well-being of all persons.

Thank you for your time and consideration regarding this important issue.

Sincerely,

A handwritten signature in blue ink, appearing to read "Hannah Liebreich".

Hannah Liebreich

HB-483-HD-2

Submitted on: 3/11/2019 7:43:03 PM

Testimony for GVO on 3/14/2019 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Caroline Kunitake	Individual	Support	No

Comments:

Aloha Chair Sen. Laura Thielen and the Committee on Government Relations,

I am writing in support of HB 483 HD2.

Please extend the deadline for the Legislative Reference Bureau to complete the study to the Legislature on existing federal Title IX enforcement practices and procedures on the federal level and in other jurisdictions. HB 483 HD2 requires LRB to make a report to the legislature no later than August 1, 2019. (HB483 HD2)

Mahalo,

Caroline Kunitake

Hearing Date: Thursday, March 14, 2019, 2:45 pm, Room 225

To: Senate Committee on Government Relations
Chair, Senator Laura H. Thielen
Vice Chair, Lorraine R. Inouye

From: Jean Evans, MPH (Individual, jevans9999@yahoo.com,
808-728-1152, 99-1669 Hoapono Pl., Aiea, HI 96701)

**Re: TESTIMONY IN SUPPORT OF HB 483, HD 2
Relating to Civil Rights**

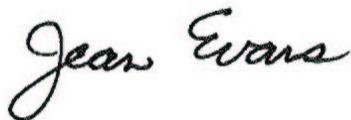
My name is Jean Evans. I retired after 40 years holding executive positions in several Hawaii non-profit agencies and received both my baccalaureate and graduate degrees from the University of Hawaii at Manoa. I am also a member of AAUW Hawaii.

I am in strong support of HB 483, HD 2 Relating to Civil Rights.

This measure seeks to extend the deadline for the Legislative Reference Bureau's (LRB) study on Title IX to no later than August 1, 2019 since they missed the original deadline called for in last year's Act 110. Due to this delay, I also request that the effective date of Act 110 be extended from January 1, 2020 to July 1, 2020 to allow time for the LRB to draft a bill for the 2020 legislative session before to be ACT 100 should be effective.

The Trump administration's decision to reverse the federal government's active stance on upholding the investigation of campus sex assaults and harassment is very troublesome, especially in light of the "Me Too" movement. In addition, the new prohibition against discrimination based on sexual orientation and gender identity can lead to overt bullying, and ultimately unequal educational opportunities. The college experience is a time where students expand their knowledge and prepare for careers. It can also be a stressful time especially if young women and transgender students are fearful. I believe this bill will help assure Hawaii continues in remain a leader in civil rights and follow in the footsteps of Patsy T. Mink.

Mahalo for allowing me to submit my testimony today.



HB-483-HD-2

Submitted on: 3/12/2019 11:11:09 AM

Testimony for GVO on 3/14/2019 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Laurie Field	Testifying for Planned Parenthood Votes Northwest and Hawaii	Support	No

Comments:

HB-483-HD-2

Submitted on: 3/12/2019 6:25:21 PM

Testimony for GVO on 3/14/2019 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Pride Work HI	Testifying for Pride at Work Hawaii	Support	No

Comments:

Dear Senators,

Pride@Work Hawaii supports the passage of HB 483 HD2.

Mahalo for the opportunity to testify.

Pride@Work Hawaii

HB-483-HD-2

Submitted on: 3/12/2019 8:48:27 PM

Testimony for GVO on 3/14/2019 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Anthony Makana Paris	Individual	Support	No

Comments:

Aloha Senators,

I support the passage of HB 483 HD 2. *Mahalo nui loa* for the opportunity to testify on this measure.

Me ke aloha,

Makana Paris

Papakā• lea, O'ahu

HB-483-HD-2

Submitted on: 3/13/2019 8:29:13 AM

Testimony for GVO on 3/14/2019 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Joy Loudermelt	Individual	Support	No

Comments:



Hawaii Women's Coalition

LATE

Committee on Government Operations
Senator Laura Thielen, Chair
Senator Loraine Inouye, Vice Chair

DATE: Thursday, March 14, 2019
TIME: 2:45 p.m.
PLACE: Conference Room 225

STRONG SUPPORT FOR HB483 that requires the Legislative Reference Bureau to submit by 3/1/2019, a report studying how other jurisdictions oversee Title IX enforcement. (SD1)

Aloha Chair Thielen, Vice Chair Inouye and members,

We fully support moving this critical study up to this date. We feel this is matter of some urgency as the Betsy Devos agenda of eliminating rights and protections guaranteed to students under the Patsy T. Mink act are being eroded day by day. The abuse of civil rights in our classrooms was bad before Devos, but under her the threats are greater.

In the 50 years since this landmark legislation was passed our public education system has made only a token effort at compliance. For example, DOE's 2016 statewide athletic plan shows there were 14 schools that have male athletic locker rooms, but no facilities for females. That does even address the inequity of funding for girls athletics. In addition, a lawsuit was filed in 2018 alleging that "Hawaii's public school administrators have systematically failed to protect students from bullying and harassment, leading to violent attacks." Unequal and hostile educational environment indeed.

We do understand that enforcement is a complex issue but, DOE has had 50 years to comply with the federal law. Perhaps with enforcement spelled out in this state Title IX, our public school students will find justice at last.

Here are the facts:

Despite overwhelming evidence of sexual harassment in schools, the Civil Rights Data Collection (CRDC) revealed that more than three-fourths (79) of all public school grades 7-12 reported zero incidents of sexual harassment. This is clearly a cover-up, a case of institutions protecting themselves at the expense of students (as was found by the filmmakers of "The Hunting Ground".)

According to the recent University of Hawaii Climate Survey Report, which polled 44,671 adult students across 10 UH campuses:

- Native Hawaiian students are particularly vulnerable to all forms of gender violence on campus;
- 1 in 10 students reported experiencing sexual harassment at any time while enrolled at UH;
- 1 in 8 students felt that it was likely that they would experience sexual assault or sexual harassment while on campus, with 1 in 4 feel that an off-campus, university-sponsored event incident was likely;

- Lesbian/gay/bisexual students had significantly higher rates of all forms of gender violence than those in other sexual orientation groups;
- And, graduate students are most vulnerable to sexual harassment and non-consensual sexual contact by faculty.

And as to our DOE public schools a 2014-15 federal compliance review on bullying that included nearly 70,00 students found the following:

- Nearly **40 percent of students** said incidents of bullying they'd experienced or witnessed made them feel unsafe at school.
- The majority of students who reported being bullied at school said that they were harassed based on race, national origin, **sex** or because of a disability.
- More than half of bullying incidents were reported to a teacher or other school employee. Schools took no action to stop the bullying in 15 percent of cases.
- And over half of students who said they reported bullying or harassment were **victimized again** after the initial incident.

In light of these findings, we are asking for:

- A Hawaii State Corollary providing Title IX protection like those provided by 2011 and 2014 Title IX guidance from U.S. Department of Education (USDOE).
- A Hawaii State Title IX Corollary, UH and Hawaii DOE regulation which would also provide:
 - More explicit process for notifying parties involved with complaints.
 - More explicit directions regarding how to notifying students of their rights and resources... without being overly prescriptive.
 - Better protections for vulnerable populations identified in 2017 UH Climate Survey Report.
 - Clear definition of "notice" and expectations for reporting (responsible employees)
 - Allocation of funds to create equitable locker rooms and other athletic related spaces at Hawaii DOE schools and across UH System.
 - Allocation of funds for additional support services (i.e. mental health counselors, advocates and educators).

Mahalo for the opportunity to testify,

Ann S. Freed Co-Chair, Hawai'i Women's Coalition